

REMARKS

Applicants respectfully request reconsideration of this application, and reconsideration of the Office Action dated November 3, 2004. Upon entry of this Amendment, claims 25-27 and 29-46 will remain pending in this application. The changes to the claims are fully supported by the specification and original claims. No new matter is incorporated by this Amendment.

Applicants gratefully acknowledge the Examiner's express indication that claims 25-27, 29, 31-35, 40, 41, 43, and 44 are allowed.

Applicants also wish to thank Examiner Steadman for discussing the present application during a telephone conversation on November 26, 2004. During the conversation, the Examiner acknowledged that the Title had been previously amended and the current objection to the Title was improper and would be withdrawn. Moreover, the Examiner also suggested claim amendments which would place the application in condition for allowance. In response, Applicants have amended the claims as suggested by the Examiner. Hence, the application is believed to be in condition for immediate allowance. Moreover, should the Examiner find the application not to be in condition for allowance, Applicants kindly request the Examiner call Applicants' undersigned representative to discuss any remaining issues.

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Applicants note the comments in the Office Action about the declaration filed August 31, 2001. In response, Applicants submit herewith a newly executed declaration which lists the correct filing date (i.e. May 4, 2000) of the priority document.

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The Title and Specification were objected to. With respect to the Title, Applicants refer to the discussion above and the Interview Summary which states that the Title was previously amended.

With respect to the specification, Applicants refer to the Amendment filed December 17, 2002 where Applicants explained the following. The methionine encoding codon (ATG) is the universal codon which is used by more than 90% of all genes in the prokaryotes and eukaryotes. However, for approximately 8% of the genes the start codon comprises GTG, and for a few other genes (including the gene that is the subject matter of the present invention) the start codon comprises TTG. Although the codons GTG and TTG typically encode amino acids that are different from methionine when they are located inside the protein, all three start codons encode methionine when they are located at the first position of the protein. Applicants previously submitted pages from a textbook (Biotechnologie und Gentechnik, Thieme Verlage, pp. 320 and 749; see highlighted sections) which corroborate Applicants' above explanation. Applicants also submitted a translation of the highlighted sections.

Hence, in view of the above, both objections are overcome and withdrawal of both is respectfully requested.

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Claim 46 was objected to as being a substantial duplicate of claim 31. In response, Applicants have amended claim 46 as suggested by the Examiner. Furthermore, Applicants point out that claim 31 encompasses degenerate variances of SEQ ID NO:1. Hence, this objection is also overcome and its withdrawal is requested.

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Claims 30, 42, 45, and 46 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Applicants have amended the claims as suggested by the Examiner during the November 26, 2004 telephone discussion. Specifically, claims 30, 42, and 45 have been amended to clarify the host cell is deposited. Moreover, the phrase “degenerate variances” has been removed from claim 46. Hence, the rejection is overcome and its withdrawal is requested.

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Claims 36-39 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement.

In addition, claim 36-39 were rejected under 35 U.S.C. § 112, first paragraph, for not being fully enabled by the specification.

In response to both rejections, claims 36 and 37 have been amended as suggested by the Examiner so that each refers to an isolated polynucleotide fragment of SEQ ID NO:1 or of the complete complement of SEQ ID NO: 1. Accordingly, this rejection is overcome and its withdrawal is requested.

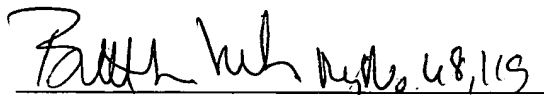
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Applicants respectfully submit that this Amendment and the above remarks obviate the outstanding objections and rejections in this case, thereby placing the application in condition for immediate allowance. Allowance of this application is earnestly solicited.

If any fees under 37 C.F.R. §§ 1.16 or 1.17 are due in connection with this filing, please charge the fees to Deposit Account No. 02-4300; Order No. 032301.1181.

If an extension of time under 37 C.F.R. § 1.136 is necessary that is not accounted for in the papers filed herewith, such an extension is requested. The extension fee should be charged to Deposit Account No. 02-4300; Order No. 032301.1181.

Respectfully submitted,
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RGW/BLN